

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

**J.W., A MINOR, BY AND THROUGH AMANDA WILLIAMS,
GUARDIAN AND NEXT FRIEND**

PLAINTIFF

VS

CASE NUMBER 3:21-cv-00663-CWR-LGI

THE CITY OF JACKSON, ET AL.

DEFENDANTS

CITY OF JACKSON'S MOTION FOR JUDGMENT ON THE PLEADINGS

The City of Jackson, through counsel and pursuant to Federal Rule of Civil Procedure 12(c), files this Motion for Judgment on the Pleadings, seeking dismissal of Counts I, II and III of Plaintiff's Amended Complaint [Doc. 51]. In support of the requested relief, the City states:

1. In the Amended Complaint, Plaintiff asserts three claims for relief against the City: (1) Count I: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – Bodily Integrity; (2) Count II: 42 U.S.C. § 1983 – Fourteenth Amendment Substantive Due Process – State Created Danger; and (3) Count III: Negligence. *See* Am. Compl. [Doc. 51] at 77-86.
2. Each Count fails to state a claim upon which relief may be granted against the City.
3. Plaintiff has not alleged a state actor's direct, intentional physical contact with Plaintiff; and, therefore, no violation of bodily-integrity.
4. The Fifth Circuit does not recognize a state-created-danger theory of liability.
5. And, Plaintiff filed the negligence claim without giving the City the notice required by the Mississippi Tort Claims Act.
6. Accordingly, and for the reasons more fully set forth in its accompanying Memorandum in Support, the City requests dismissal of Counts I, II and III against it.

RESPECTFULLY SUBMITTED, this the 12th day of May, 2022.

/s/ Clarence Webster, III

CLARENCE WEBSTER, III

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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2022, I electronically filed the foregoing pleading with the Clerk of the Court using the CM/ECF system which served a copy of the foregoing on all counsel of record.

/s/ Clarence Webster, III

CLARENCE WEBSTER, III